

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JENNIFER HARRIS, )  
)  
Plaintiff, )  
)  
vs. ) Civil Action No.  
) 4:21-cv-1651  
FEDEX CORPORATE SERVICES, )  
INC., )  
)  
Defendant. )

\*\*\*\*\*  
ORAL DEPOSITION OF  
JENNIFER HARRIS  
MAY 19, 2022  
\*\*\*\*\*

Job No. CS5236668

On the 19th day of May, 2022, at 9:00 a.m., the videotaped oral deposition of the above-named witness was taken at the instance of the Defendant, FedEx Corporate Services, Inc., before Michelle L. Munroe, Certified Shorthand Reporter in and for the State of Texas, at The Sanford Firm, 1910 Pacific Avenue, Suite 15400, Dallas, Texas, pursuant to Notice and the agreement hereinafter set forth.

1 Ahern and Michelle Lamb.

2 JENNIFER HARRIS,

3 having been first duly sworn, testified as follows:

4 EXAMINATION

5 BY MR. BABCOCK:

6 Q. Good morning, Ms. Harris.

7 A. Good morning.

8 Q. I hand you what has been marked as

9 Exhibit 1 and Exhibit 2 to the deposition.

10 Exhibit 1 is Charge of Discrimination. It's Bates

11 FXC 675 and 676. Exhibit 2 is an amended charge of

12 discrimination. It's Bates Harris-1057 through

13 1062.

14 Focusing your attention on Exhibit 1,

15 Ms. Harris. That's your signature in the bottom

16 left-hand side; is that right?

17 (Exhibit 1 marked.)

18 A. Yes.

19 Q. And at the time you submitted this --

20 signed this document, you were represented by

21 counsel; is that correct?

22 A. Yes.

23 Q. And you reviewed Exhibit 1 before you

24 submitted it to the EEOC?

25 A. Yes.

1 revenue. So FedEx transitioned to a new pricing  
2 program called ePRS, which caused many issues where  
3 management -- both Michelle, Dave Russell, and  
4 several other people -- were knowledgeable of the  
5 issue because it wasn't just BJ Services who had the  
6 issue.

7 But to focus on BJ Services, the pricing  
8 did not load correctly. This was escalated on  
9 several occasions prior to the customer shipping so  
10 that it could get corrected. But, unfortunately,  
11 the pricing team did not have the tools and  
12 resources to correct it prior to the customer  
13 shipping. So when they shipped, the pricing and  
14 discounts that they were supposed to receive were  
15 incorrect which caused them to have inflated revenue  
16 which then, in return, the next year inflated the  
17 goal that was impacted by the district aligned to  
18 that particular customer, BJ Services.

19 Q. Okay. So looking at the first sentence of  
20 paragraph 2, you say, On or about July 11, 2018, I  
21 first witnessed the difference in the way management  
22 treated black employees and white employees.

23 Did I read that right?

24 A. Correct.

25 Q. So I'm trying to understand -- what do you

1           A.     Correct.  It came from Michelle Lamb.

2           Q.     Okay.  Can you explain to me briefly how  
3     the report compared you to other DSMs?

4           A.     The snippet or screenshot of the report  
5     that she sent in her email showed false data that my  
6     district didn't have adequate FedEx One Rate and  
7     Global Gold Rush opportunities in the pipeline when  
8     the truth is that the details she sent in the report  
9     when I went to Salesforce to verify the reports of  
10    my white peers were details from 2014, 2016, and  
11    2017 when none of us were in the role.

12                So the accuracy of the report was  
13    incorrect, which I highlighted in my response to her  
14    because, yet again, this was another example of her  
15    falsely accusing me of poor performance.  And the  
16    accurate details of the report confirmed by  
17    Salesforce shows that those opportunities in the  
18    report that she used were not correct.

19                There was no acknowledgment or apology of  
20    her falsely accusing me of, you know, the incorrect  
21    opportunities.  I then provided her with correct  
22    opportunities from my team since the report that she  
23    showed was inaccurate.  But yet there was never any  
24    acknowledgment of the mistake of her accusation, but  
25    yet more praise of my white peers that, oh, they're

1     against me in her allegations to make it appear that  
2     I was a poor performer, so it took time. It wasn't  
3     that she, oh, magically had, you know, a report that  
4     she could pull because at the time, there was no  
5     details to support her allegations. So she had to  
6     create those type of reports and generate those  
7     details and then issue the letter of counseling.

8           Q.     All right. Paragraph 5, in September  
9     of 2018, Ms. Lamb approved you to attend the  
10    Pathways event in Memphis; is that right?

11          A.     Yes.

12          Q.     Paragraph 6, what company goals does  
13    attending Pathway help you achieve?

14          A.     It helps me continue to develop my  
15    leadership skills as well as develop people who  
16    aspire to be leaders in the company. That's always  
17    been a part of the FedEx culture. I was a part of  
18    lead-up, but they transitioned the program to  
19    Pathway, which is a direct connection of people who  
20    aspire to be leaders.

21          Q.     Okay. And you were told by Ms. Lamb in  
22    January of 2019 that you could no longer attend the  
23    Pathways event; is that right?

24          A.     Yes.

25          Q.     And then you eventually attended the

1 Pathways event by taking vacation time and going to  
2 Memphis yourself, correct?

3 A. Correct. And my white peers were also  
4 allowed to go to Dallas to the same event and --

5 Q. We'll get to that.

6 A. Okay.

7 Q. It's in here. Trying to go paragraph by  
8 paragraph, ma'am.

9 A. Okay.

10 Q. Okay?

11 And you were told by Ms. Lamb that FedEx  
12 was attempting to control costs in January of 2019,  
13 correct?

14 A. Correct.

15 Q. And that was the reason she told you you  
16 couldn't go to the Memphis Pathways event, right?

17 A. Correct.

18 Q. Am I right, ma'am, this is not the first  
19 time in your FedEx career that you observed FedEx  
20 going into cost control mode? Is that fair?

21 A. Correct.

22 Q. Do you agree, ma'am, that it's not the  
23 managing director such as Ms. Lamb's decision on  
24 whether or not FedEx is going to attempt to control  
25 costs at any given time?

1 anybody of the other panelists?

2 A. I do not.

3 Q. And ultimately, this Pathway event in  
4 Memphis, you were permitted to go as long as FedEx  
5 didn't have to pay for your airfare and your hotel  
6 and your incidentals, correct?

7 A. And required me to take vacation.

8 Q. Okay. And you were eventually reimbursed  
9 for those two vacation days, correct?

10 A. Only for the vacation, not for the hotel  
11 or the rental car.

12 Q. Correct.

13 My question was: You were eventually  
14 reimbursed for the two vacation days, correct?

15 A. After I continued to complain about the  
16 issue because originally FedEx declined to give me  
17 the vacation days back. They said that it wasn't  
18 required and that Michelle stated that she didn't  
19 know I was using vacation to attend the Pathway  
20 event when in my vacation request, it specifically  
21 says, Memphis visit.

22 And during our conversation, I told her  
23 that I was going to use vacation so that I could  
24 still attend the Pathways event because I was  
25 committed to be able to help and develop the Pathway

1 candidates.

2 Q. Okay. I'm not trying to be controversial,  
3 ma'am.

4 Sitting here today, you have been paid for  
5 the two days of vacation, correct?

6 MR. SANFORD: Objection; form.

7 A. After several complaints, yes.

8 Q. Okay. And you attended the Pathways  
9 event, correct?

10 A. Correct.

11 Q. So you're able -- in your mind, were you  
12 able to advance the company goals and further  
13 develop your skills by attending this event?

14 A. Yes.

15 Q. Paragraph 7, you use the word "pretext."  
16 What does "pretext" mean?

17 A. Where are you?

18 Q. Second line. It says, Initially relieved  
19 at the revived opportunity, I later learned that  
20 Ms. Lamb's previous excuses for barring my  
21 attendance at Pathway were merely pretext.

22 A. Yeah, it was a coverup.

23 Q. Okay. Did you ask to attend the Dallas  
24 Pathway event?

25 A. No, but I was neither given the invitation



1       were able to work together yet had separate  
2       meetings. But yet I was singled out and had to do  
3       things exactly how Michelle Lamb wanted it done.

4             Q.     Oh, I see.

5                    So is it your testimony, ma'am, that  
6       Michelle Lamb micromanaged how you would roll out  
7       Coach2Grow with your team?

8             A.     Correct.

9             Q.     And she didn't micromanage some of your  
10       white peers on their rollout to Coach2Grow with  
11       their teams?

12            A.     Correct.

13            Q.     Okay. Can you describe for me how  
14       Ms. Lamb's response was aggressive or condescending?

15                    What specifically do you take issue with  
16       with her response?

17            A.     It was the tone and words used in her  
18       email and in her communication to me. She responded  
19       that she yet again had to spend 3 hours with me on  
20       the demonstration of Coach2Grow 2.0 when coaching  
21       and development is part of her job.

22                    If she didn't feel like I did it the right  
23       way and I'm trying to be resourceful to leverage my  
24       peers, but even if that's not the approach she  
25       wanted to take, instead she didn't have to be

1 aggressive with her response.

2 Coaching and development is a part of what  
3 we did as a leader. And if someone didn't get it  
4 the first time, it's not that they, you know, aren't  
5 a good person and can't absorb the details. So  
6 having an aggressive attitude with a response that  
7 she yet again had to spend more time with me was  
8 very offensive.

9 Q. Okay. And Ms. Lamb told you in your  
10 March 7, 2019, meeting that you were not a, quote,  
11 strong coach; is that right?

12 A. That is correct.

13 Q. And you disagree with that, right?

14 A. Yes, I disagree.

15 Q. Okay. What would you expect of a team  
16 being led by a strong coach? What would that team  
17 exhibit, what kind of qualities?

18 A. They would be able to develop, be able to  
19 demonstrate, be able to collaborate, be able to  
20 identify strengths and weaknesses of the individual  
21 that they were coaching so that they could create a  
22 strategy and leverage their experience and knowledge  
23 to then, in return, demonstrate best practices on  
24 how they could move forward and improve.

25 Q. Okay. Would a team being led by a strong

1 coach, would that team be able to meet their  
2 objectives and metrics that FedEx expects of a sales  
3 team to meet?

4 A. Yes.

5 Q. In paragraph 9, you say, Given the  
6 severity of the Coach2Grow 2.0 incident.

7 Do you see that?

8 A. Yes.

9 Q. Were there -- was there anything else that  
10 occurred in your actions with Michelle Lamb about  
11 Coach2Grow in the spring of 2019 that occurred that  
12 you haven't already testified to here this morning?

13 A. Not about Coach2Grow.

14 Q. Okay. And Coach2Grow, the -- the meeting  
15 took place on March 7, 2019, correct?

16 A. Yes.

17 Q. So it was after that incident that you had  
18 your first conversation with Jim Wallace about your  
19 concerns involving Michelle Lamb. Fair?

20 A. Yes.

21 Q. Was that the first time you had ever  
22 spoken or dealt with Mr. Wallace?

23 A. In a complaint form, yes.

24 Q. Okay. Did you deal with him as your -- as  
25 the HR representative or adviser that was matrixed

1 A. Yes.

2 Q. How did you reach out to Mr. Chonoles?

3 A. Via email.

4 Q. Was it the same email you sent to  
5 Mr. Clark?

6 A. Yes.

7 Q. Okay. So you sent an email to the two of  
8 them.

9 A. Yes.

10 Q. Fair?

11 A. Uh-huh.

12 Q. All right. Paragraph 15. Am I correct,  
13 ma'am, that the letter of counseling is the initial  
14 basis of your retaliation complaint?

15 A. Yes.

16 Q. Did you form a belief at the time you  
17 received the letter of counseling that your race had  
18 something to do with receiving the letter of  
19 counseling?

20 A. Yes. It was the only determining factor  
21 Michelle Lamb used in evaluating my performance  
22 compared to my white peers.

23 Q. So is your contention, ma'am, that had you  
24 been white or another race or a race that isn't  
25 black, you would not have received a letter of

1 counseling?

2 A. Right. Because in her evaluation, I would  
3 have been the same if not better than my white  
4 peers.

5 Q. Okay. You mention in paragraph 15, My  
6 recent complaints regarding Mrs. Lamb -- Ms. Lamb.  
7 Excuse me.

8 Have we discussed all those complaints,  
9 again, up until the time of receipt of the letter of  
10 counseling so far today?

11 A. The negative impact of BJ Services, 4G  
12 Dental, the issue with Coach2Grow, her  
13 aggressiveness of approaching me in email and  
14 one-on-one situations, up to that point, yes.

15 Q. Okay. You mention in paragraph 15 that  
16 the documented discussion process is missing, right?

17 A. That is correct. There was no documents.  
18 In the 11 years that I had worked for FedEx, I had  
19 never received any discipline and there was no  
20 documented discussion between myself and Michelle  
21 Lamb of any issues with my performance until after  
22 my complaint.

23 Q. Can you describe for me as a former  
24 manager of FedEx what the documented discussion  
25 process is to your understanding?

1           A.     Sure, because I have used them. It is how  
2 we are trained by human resources to identify an  
3 area of opportunity, whether it's performance or  
4 conduct, so that we could then develop a strategy to  
5 try to develop the employee and then give them  
6 details that if their performance conduct didn't  
7 improve, that it could proceed to a letter of  
8 counseling.

9           So the documented discussion is a part of  
10 the policy that outlines a manager identifying an  
11 area of opportunity to an employee, +and it was  
12 skipped during my process.

13          Q.     Okay. But you would agree, ma'am, that a  
14 manager could describe an area of opportunity to an  
15 employee during a one-on-one, right?

16          A.     Correct.

17          Q.     And -- or a manager could highlight an  
18 area of opportunity to his or her employee through  
19 the use of an email, correct?

20          A.     Correct.

21          Q.     In other words, it's your understanding,  
22 isn't it, ma'am, that you don't have to have a  
23 document that has the phrase "documented discussion"  
24 at the top in a formal process or formal form,  
25 correct?

1 Jennifer Garcia.

2 Q. All right. Okay. And then after you  
3 found out because you went prospecting --

4 A. Correct.

5 Q. -- with Abraham -- I forgot his last name.

6 A. Velasco.

7 Q. Velasco. Mr. Velasco.

8 And that's when you first learned from 4G,  
9 hey, we just saw Ms. Garcia and Ms. Lamb?

10 A. Correct.

11 Q. Okay. All right. So then you raised the  
12 issue with Ms. Lamb that, hey, 4G should, because  
13 it's in Spring, Texas, should be in my geographic  
14 area, correct?

15 A. Correct. And just like she adjusted the  
16 negative revenue of BJ Services, she should have  
17 positively adjusted the 4G Dental to my district  
18 since it was improperly aligned.

19 Q. Got it. Thank you.

20 Did you ever have in your management  
21 career a similar situation where a customer wasn't  
22 properly aligned at the beginning when the customer  
23 was onboarded and you raised an issue with someone  
24 in management that the customer should be realigned?

25 A. I have never had an issue where I have

1       instead of continuing to allow my white peer Brian  
2       Conrey receive the positive revenue credit and  
3       commission for that account, which also helped her  
4       with her false accusation of poor performance.

5             Q.     Okay. Thank you.

6                    Paragraph 19?

7             A.     Yes.

8             Q.     What facts or actions by Ms. Lamb can you  
9       point me to to support your contention that Ms. Lamb  
10      wanted to terminate your employment at the time she  
11      put you on the performance improvement plan in  
12      September of 2019?

13            A.     The negative impact of BJ Services, which  
14      was a 1-plus million dollar adjustment, potentially  
15      every quarter on that particular customer; in  
16      addition to not properly aligning the 4G Dental  
17      account, which shows and demonstrates \$80,313.54 of  
18      positive revenue that should have been properly  
19      aligned to -- to me and my district; in addition to  
20      her aggressive response to the details in her  
21      Coach2Grow 2.0; and all of the other details that I  
22      shared.

23                    So all of those things line up with the  
24      response that I sent for retaliation and  
25      discrimination from Michelle Lamb.



1 drafted?

2 A. Because she used different details. Just  
3 as the example of my white peer Richard Holley being  
4 given zero of six quarters and, in my letter of  
5 counseling, I was given zero of four quarters, it's  
6 different and inconsistent with my white peer.

7 So the details outlined in the performance  
8 improvement plan actually allowed her to inflate her  
9 expectation of improvement and falsely accuse me of  
10 not doing well when, compared to my white peers, I  
11 was doing better if not the same as them.

12 Q. Wasn't this September 2019 PIP your second  
13 PIP?

14 A. That is correct.

15 Q. Okay. And wasn't the second PIP based on  
16 some of the issues that were being addressed in your  
17 first PIP?

18 A. But they also aligned to her falsely  
19 inflating the numbers of BJ Services and 4G Dental,  
20 which should have positively impacted me. So she  
21 continued to add on those details and retaliate  
22 against me due to my complaint to HR to her -- on  
23 her, excuse me, for the letter of warning now with  
24 the second PIP.

25 MR. BABCOCK: I'm just going to move

1 to strike as nonresponsive.

2 Q. Ma'am, my question was: Wasn't the second  
3 PIP in September 2019 based on some of the contents  
4 of your first PIP?

5 A. Some of the contents, yes.

6 Q. Okay. And you claim in here -- it's on  
7 the top of the next page -- you were only provided  
8 one quarter to show improvement, correct?

9 A. Yes.

10 Q. And a quarter at FedEx is 90 days?

11 A. Yes.

12 Q. Okay. And so who are the similarly  
13 situated or worse performing white employees that  
14 you're referencing in this paragraph?

15 A. Brian Hickman, Jaime Golden-McElroy,  
16 Richard Holley, and Brian Golden.

17 Q. And that's the same discussion we had  
18 before the first break where you talked about their  
19 attainment goals?

20 A. And their calls on opportunities --

21 Q. Right.

22 A. -- and their joint calls, all of those  
23 details compiled, or details she used to falsely  
24 accuse me of poor performance and not consistently  
25 use those same factors to evaluate my white peers.

1 Q. I know. Let's move to 22.

2 A. Okay.

3 Q. It says in here that the recent PIP --  
4 that would be the September 2019 PIP, correct?

5 A. Yes.

6 Q. And you say, quote, which falsely accuses  
7 me of managing the district with the lowest pricing  
8 activity in the region, closed quote.

9 Did I read that phrase right?

10 A. That is correct.

11 Q. And you're saying that that's blatantly  
12 false, right?

13 A. That is correct.

14 Q. Okay. Were -- was there false information  
15 in your first PIP as well, ma'am?

16 A. Yes.

17 Q. And do you recall what that false  
18 information was?

19 A. It was the negative adjustment from  
20 BJ Services that was falsely aligned to me and  
21 should have been aligned to my white peer Brian  
22 Conrey and the adjustment of 4G Dental, which should  
23 have been positively aligned to me and was not.

24 Q. Okay. Was there anything correct or  
25 justifiable in your mind, ma'am, in your first PIP?

1 A. No.

2 Q. Okay. Was there anything justified or  
3 correct or true in your second PIP?

4 A. No.

5 Q. Okay. In paragraph 22, you highlight that  
6 you were number 4 in the region for daily  
7 activations.

8 Do you see that?

9 A. That is correct.

10 Q. Do you recall, sitting here today, what  
11 you ranked in all the other metrics that FedEx  
12 tracks?

13 A. I recall that I was number one in joint  
14 call activity, but I don't recall which place I was  
15 in calls on opportunities, but I know I was in the  
16 top half, so in the top four of managers on her  
17 team.

18 Q. Besides daily -- average daily  
19 activations, joint call activities, call on  
20 opportunities, those three categories, what other  
21 metrics did FedEx measure?

22 A. Close business tracking.

23 Q. Any other metrics?

24 A. Pricing.

25 Q. Any other metrics?

1 A. Yes.

2 Q. What race is Mr. Holley?

3 A. White.

4 Q. And he's a man?

5 A. That is correct.

6 Q. Okay. When you were a manager at FedEx,  
7 did you have training?

8 A. Yes.

9 Q. Okay. And did you -- you're aware that  
10 FedEx has policies, right?

11 A. Yes.

12 Q. Like an EEO policy? Are you aware of  
13 those policies?

14 A. Yes.

15 Q. Okay. That FedEx has a progressive  
16 corrective action policy, are you aware of that  
17 policy?

18 A. Yes. I used it myself.

19 Q. What about that FedEx has an acceptable  
20 conduct policy, are you aware of that?

21 A. Yes.

22 Q. Are you aware that FedEx has an equal  
23 employment opportunity policy?

24 A. Yes.

25 Q. Are you aware that FedEx has an

1 antiharassment policy?

2 A. Yes.

3 Q. Are you aware that FedEx has a policy that  
4 describes the EXPLORE process?

5 A. Yes.

6 Q. And you went through the EXPLORE process,  
7 correct?

8 A. Yes.

9 Q. Twice, right, once for the warning letter  
10 and once for your termination?

11 A. Yes.

12 Q. And if I remember correctly in my review  
13 of the documents, you didn't attend any meetings,  
14 correct?

15 A. No.

16 Q. Because you were represented by counsel at  
17 that point, right?

18 A. That is correct.

19 Q. All right. Is it your understanding that  
20 your counsel communicated with FedEx while you were  
21 in the EXPLORE processes?

22 A. Yes.

23 Q. Okay. Are you aware that FedEx has a code  
24 of conduct?

25 A. Yes.

1 Q. Okay. And you had periodic training on  
2 the code of conduct, correct?

3 A. Yes.

4 Q. And periodic, I believe -- well, I'll ask  
5 you: Was the training annual training, recurring  
6 training about the code of conduct?

7 A. Code of conduct, I don't recall at this  
8 time if it was annual or periodic.

9 Q. But you -- it was definitely periodic,  
10 though, right?

11 A. Yes.

12 Q. All right. You're aware that FedEx has an  
13 Alert Line, correct?

14 A. Yes.

15 Q. Did you ever call the Alert Line?

16 A. No.

17 Q. And you're aware through your training at  
18 FedEx as a manager, an employee can complain to an  
19 HR professional if they choose to, right?

20 A. Yes.

21 Q. They can complain to another member of  
22 management?

23 A. Yes.

24 Q. They can complain to FedEx security?

25 A. Yes.

1 Q. They can call the Alert Line?

2 A. Yes.

3 (Exhibit 3 marked.)

4 Q. Okay. Hand you what has been marked as  
5 Exhibit --

6 MR. BABCOCK: Do you have a pen?

7 MR. SANFORD: A what? A pen? I do.

8 MR. BABCOCK: Okay.

9 Q. -- Exhibit 3, which is an exempt job  
10 description for a sales manager. It's Bates FXS1780  
11 through 1782.

12 Have you ever seen this -- did you ever  
13 see this document, ma'am? And let me tell you, if  
14 you thumb through it, it's -- the first page is --  
15 let's start -- let's go page by page. All right?

16 A. Okay.

17 Q. Let me start over.

18 So I'm looking at the first page of  
19 Exhibit 3, which is FSX1780. This is a manager's of  
20 sales with a run date of January of 2015.

21 Do you see that?

22 A. Yes.

23 Q. Do you see under General Summary?

24 A. Yes.

25 Q. If you could read that to yourself and let



1 me know when you're done.

2 A. (Reviewed document.) Okay.

3 Q. I'm going to ask you: Do you think that  
4 describes what you believe your job duties were as a  
5 manager in sales?

6 A. Some of them yes.

7 Q. And that goes on to talk about the  
8 essential duties, correct?

9 A. Some of the duties, yes.

10 Q. Okay. It lists three, correct, essential  
11 duties?

12 A. Yes.

13 Q. All right. And do you agree with each of  
14 those three -- do you agree those are essential  
15 duties of a manager at sales -- as part of the sales  
16 organization? Excuse me.

17 A. Some of them, yes.

18 Q. Okay. Do you think there's more essential  
19 duties?

20 A. Yes.

21 Q. What additional -- if you were drafting  
22 the policy, what additional essential duties or  
23 responsibilities would you add?

24 A. There -- it's missing holding, you know,  
25 the account executive responsible to obeying other

1           So the history of my performance  
2 demonstrates that I was very successful in -- not  
3 only as an individual contributor role but as a  
4 manager because my first year as a district sales  
5 manager in field sales, I was awarded President's  
6 Club as well.

7           Q.    Would you agree, ma'am, in your history of  
8 being a sales professional at FedEx, that probably  
9 the most important job or the -- or the reason FedEx  
10 has a sales team is to go out and find revenue for  
11 the FedEx operating companies?

12          A.    That is one of them but maintaining  
13 revenue is also as important.

14          Q.    Okay. Because without customers shipping  
15 packages, there's no -- they wouldn't be able to pay  
16 the employees, right?

17          A.    Right.

18          Q.    Okay. What criteria do you believe  
19 indicates a successful manager?

20          A.    I think the consistency of territory  
21 management, performance with maintaining, growing,  
22 and finding new revenue, all of those components  
23 aligned with each other, and it's an ongoing  
24 evaluation. It just doesn't stop with those steps.  
25 You have to go back to see if the existing strategy

1       that you're utilizing is working or if there's  
2       opportunity for change. So those are just some of  
3       the characteristics of a good sales professional.

4             Q.    All right. Thank you.

5             Looking at paragraph 42, which is on  
6       page 6. Again, some of this is another way to see  
7       if it jogs your memory of anything else.

8             You write, Many other persons have  
9       complained of discrimination or retaliation at  
10      FedEx.

11            You testified before about Richard Holley,  
12      correct?

13            A.    Yes.

14            Q.    Is there anyone else that you're aware of  
15      that complained of discrimination? We'll start  
16      there.

17            A.    Yes.

18            Q.    Who?

19            A.    Blanche Bond-Hudson.

20            Q.    Who is Blanche -- and what's her last  
21      name?

22            A.    Bond-Hudson.

23            Q.    Can you attempt to spell that?

24            A.    B-o-n-d, H-u-d-s-o-n.

25            Q.    And who is -- is Ms. Hudson a female?

1 Q. Okay. On paragraph 74, that's when  
2 Ms. Lamb asked Ms. Harris to take a demotion on  
3 March 8, 2019.

4 Did I read that right?

5 A. Yes.

6 Q. All right. And this was the  
7 conversation -- or part of the conversation you had  
8 with Ms. Lamb where you discussed the Coach2Grow 2.0  
9 rollout, right?

10 A. Yes.

11 Q. Okay. And it was that conversation that  
12 caused you to believe Ms. Lamb was discriminating  
13 against you, correct?

14 A. Yes. She wanted to try to bully me out of  
15 my position, which I had earned.

16 Q. In other words, up until that time period,  
17 things were going fine at FedEx from your point of  
18 view?

19 A. Yes.

20 Q. Okay.

21 A. I had just won President's Club, and which  
22 she was awarded because she is given President's  
23 Club based on her managers' performance.

24 Q. Okay. Paragraph 75 says you reported the  
25 discrimination to FedEx human resources department

1 on March 11, 2019.

2 Do you see that?

3 A. Yes.

4 Q. Did I read that right?

5 A. I sent the email to Dave Russell and Dan  
6 Mullally.

7 Q. Okay.

8 A. And the policy says as long as you  
9 escalate to management and you specifically state  
10 those details, it is supposed to be given to HR.

11 Q. Have you ever heard the -- strike that.

12 When you were at FedEx, did you know about  
13 the EthicsPoint process or management system?

14 A. I am not familiar.

15 (Exhibit 5 marked.)

16 Q. Okay. Hand you what has been marked as  
17 Exhibit 5. That's the EthicsPoint for the 3/11/2019  
18 complaint -- actually, can you hand that back to me,  
19 Miss?

20 A. (Witness complies.)

21 Q. Thanks.

22 It's Bates FXE414 through 417.

23 MR. SANFORD: Last page is not.

24 MR. BABCOCK: I'm not sure how another  
25 page got stapled to it, but it's no longer stapled.

1                   MR. SANFORD: Do you need it back? It  
2 says "privileged."

3                   MR. BABCOCK: I've already produced it  
4 to you.

5           Q. If you go to page 2, it says, Provide a  
6 brief description of the general nature of this  
7 matter. Please limit it to one or two sentences.

8                   And it says, quote, DSM Jennifer Harris  
9 had alleged her director, Michelle Lamb, has shown  
10 discrimination towards her, creating an  
11 uncomfortable place to work. She was recommended to  
12 find other opportunities that are not leadership  
13 roles within FedEx.

14                   Did I read that right?

15           A. Yes.

16           Q. Okay. And now your email, which we'll get  
17 to, to Mr. Mullally and Mr. Russell obviously was  
18 more than two sentences, right?

19           A. Yes.

20           Q. Okay. But the two sentences we just  
21 looked at in Exhibit 5, do you believe that to  
22 reference the meeting that you had in March with  
23 Michelle Lamb where she suggested you find a  
24 different role at FedEx?

25           A. Part of it, yes.

1           Q.    Okay.  Were you aware before right now  
2           that the complaints you raised to Mr. Russell and  
3           Mr. Mullally were inputted into this software  
4           program?

5           A.    No.

6           Q.    Okay.  Paragraph 78, this is the  
7           August 23, 2019, incident of -- I'll just read it,  
8           quote, On August 23, 2019, Ms. Harris reported  
9           discrimination and retaliation again by Ms. Lamb for  
10          not assigning a customer in Ms. Harris's district to  
11          Ms. Harris, closed quote.

12                   Did I read that right?

13          A.    Yes.

14          Q.    This is the 4G --

15          A.    That is correct.

16          Q.    -- Dental?

17          A.    Yes.

18          Q.    Okay.  Paragraph 92 and 93.  This is on  
19          page 11.  This talks about your quota being set too  
20          high because a customer's moved out of your district  
21          to another district.

22          A.    That is correct.  That reference is  
23          BJ Services.

24          Q.    Okay.  And by "quota," you mean revenue  
25          attainment?

1           A.    That is correct.

2           Q.    Okay.  So, Ms. Harris, it's your  
3           contention that if you back out -- or if you rectify  
4           BJ Services by not inflating your revenue attainment  
5           for that number and then you got credit for 4G  
6           Dental, your performance gap to revenue goal  
7           wouldn't exist, right?

8           A.    It would based on the data because I was  
9           not given all of the quarters of BJ Services.  Based  
10          on the calculation, I would be higher and the same  
11          with some of my white peers on the team.

12          Q.    Would you still be missing your goal?

13          A.    But not the same as what was identified on  
14          that letter of counseling.

15          Q.    Appreciate that.

16                  Would you still be missing your goal?

17          A.    Yes, but not the same as listed on the  
18          letter of counseling.

19          Q.    Okay.  Paragraph 95 you write -- you  
20          allege, excuse me, quote, Ms. Harris's white  
21          supervisor, Ms. Lamb, belittled Ms. Harris to  
22          Ms. Harris's peers, closed quote.

23                  Did I read that right?

24          A.    Yes.

25          Q.    I don't think we have discussed this yet



1 with Ms. Lamb where she belittled you?

2 A. When she sent the email which falsely  
3 accused me of those FedEx One Rate and Global Gold  
4 Rush, we looked at -- or talked about --  
5 apologize --

6 Q. Uh-huh.

7 A. -- those details as well. It was --

8 Q. Okay.

9 A. She compared me to my white peers and that  
10 I was a poor performer, and everything was a beat  
11 down, but in the research in confirming the details  
12 that she sent in the report, they were inaccurate.

13 So instead of acknowledging that there was  
14 a mistake on her part or whoever's part in producing  
15 that false information, it's that she wants to  
16 continue to try to belittle me and encourage me to  
17 step down from the position or leave FedEx so that  
18 she could continue to discriminate and retaliate  
19 against me.

20 Q. Okay. Did Ms. Lamb ever use a racial slur  
21 towards you?

22 A. No.

23 Q. Are you aware of Ms. Lamb ever referring  
24 to you in a racially derogatory way to another  
25 person at FedEx?

1           A.    Not to my knowledge, no.

2           Q.    Okay. Paragraph 97 of the complaint, it's  
3 on page 11 of the amended complaint.

4           A.    Yes.

5           Q.    Is -- the HR adviser, is that Jim Wallace?

6           A.    Yes.

7           Q.    Okay. Besides the conversation involving  
8 the Coach2Grow in March 1 and the additional  
9 conversation you had with her about the FedEx One  
10 Rate and the Global Rush, was anything said to you  
11 either outside of work or while you were at work by  
12 Ms. Lamb that you considered offensive or demeaning  
13 slanderous?

14          A.    Yes.

15          Q.    Okay. What conversation -- where -- where  
16 were you when Ms. Lamb said these things to you?

17          A.    The first instance was an email and her  
18 response to me asking her about the adjustment of  
19 BJ Services. Instead of responding and  
20 acknowledging that she went through a loophole to  
21 negatively adjust that account to me so that it  
22 would make my white peer have a higher commission,  
23 she denied it.

24               And once the sales compensation  
25 representative, Vicky Peterson, forwarded us the

1     this May 21, 2018, meeting that you wanted to do all  
2     three of those activities under your joint rides  
3     with your AEs?

4             A.    I don't recall that, but I also held  
5     one-on-ones on my calendar as well.

6             Q.    Do you recall that members on your team,  
7     some of your account executives complaining that  
8     your coaching of them took place at the end of the  
9     day and spilled over into the evening?

10            A.    Yes, one.

11            Q.    And who was the one?

12            A.    Lynne Hennessey.

13            Q.    Okay. So you remember only one AE  
14     complaining about that. Is that fair?

15            A.    Yes, one of the eight.

16            Q.    And then the second page of this Exhibit 6  
17     is the calendar invite for this meeting, correct?

18            A.    Yes.

19            Q.    All right. And would Ms. Lamb often tell  
20     you some of the topics you-all were to discuss  
21     during your one-on-ones?

22            A.    Yes.

23            Q.    Okay. Did you find that helpful?

24            A.    Not all the time because during the  
25     meetings, we did not always follow the agenda of the

1           A.    I volunteered for that to be done because  
2           in October of 2017, we already identified that there  
3           was an issue with the pricing of BJ Services and if  
4           it was correctly implemented, that we wouldn't have  
5           had any inflated or rerating done to that particular  
6           customer.

7                        So it was well enough time for the pricing  
8           to be corrected so that it would prevent the issue.  
9           It wasn't that it was a one-time communication.  
10          There were several people on the email to bring  
11          awareness of the issue because of the ePRS system  
12          not aligning discounts properly.

13          Q.    Is it your contention, ma'am, that  
14          Ms. Lamb instructed or made sure the pricing  
15          department didn't correct the BJ Services in a  
16          timely fashion?

17          A.    She didn't escalate it either.

18          Q.    That wasn't my question. Is it your  
19          contention, ma'am, that Michelle Lamb somehow  
20          influenced the pricing people to not fix the  
21          BJ Services issues in a timely fashion?

22          A.    She didn't help it either, so no.

23          Q.    Okay. If FedEx -- in the situation where  
24          they don't request the revenue to be repaid, does  
25          that impact the stretch goal on that account for the

1 following year?

2 A. It does.

3 Q. Okay. Do you recall the amount of the  
4 overpayment to you for your commission on the  
5 BJ Services --

6 A. I do not.

7 Q. -- matter?

8 Was it around \$300?

9 A. I have no idea. I don't even know the  
10 exact number of the difference between the discounts  
11 and what they should have received. All I do know  
12 is that during the evaluation of President's Club,  
13 they were audited so that they could look to see if  
14 we even qualified for President's Club by removing  
15 the inflation of BJ Services.

16 And even once that was corrected and the  
17 inflation was removed, myself and Jennifer Garcia  
18 still excelled in performance and was awarded  
19 President's Club.

20 (Exhibit 10 marked.)

21 Q. Hand you what has been marked Exhibit 10,  
22 which is an email chain from January 2018 involving  
23 BJ Services. It's ESI 0040773 and 774.

24 All right. And in January of 2018, your  
25 boss, Ms. Lamb, asked you to provide her or share

1 a ZIP code is moved, an account manager is moved,  
2 customers are moved, the goal is transitioned with  
3 it. If you reviewed the details of the email from  
4 Vicky Peterson, if that was a part of the process,  
5 there would not have been a loophole requested for  
6 Vicky Peterson to find a way to negatively adjust it  
7 back to me.

8 Q. Okay. And is it your belief, ma'am, that  
9 had you been white, the negative adjustment would  
10 have been put back on you.

11 A. The determining factor that Michelle used  
12 to evaluate my performance alignment to any accounts  
13 all aligns with my race. When you look at all of my  
14 peers on that team, I'm the only African-American,  
15 so yes, that is correct.

16 MR. BABCOCK: Move to strike as  
17 nonresponsive.

18 Q. Ma'am, my question was: Is it your belief  
19 that if you were white, that you would not have  
20 received the stretch goal related to the  
21 BJ Services?

22 A. Yes, if I was white.

23 (Exhibit 12 marked.)

24 Q. Hand you Exhibit 12. Email chain  
25 regarding Tom Seagraves' letter of counseling. It's

1           Q.    And you indicate to Dave Russell and Dan  
2 Mullally that Mr. Wallace suggested to you that you  
3 assume positive intent, correct?

4           A.    Yes.

5           Q.    You further indicate that Mr. Wallace told  
6 you to consider this a miscommunication to follow up  
7 with him again if you needed to, correct?

8           A.    Yes. He did not take any complaint  
9 serious.

10                   (Exhibit 28 marked.)

11           Q.    I'm going to hand you what has been marked  
12 Exhibit 28. It's an email from you to Ms. Lamb  
13 dated October 9 of 2018.

14                   In this email you're asking her to  
15 schedule weekly one-on-ones with you, correct?

16           A.    Yes. That was guidance from Dave Russell.

17           Q.    And you also asked to schedule something  
18 on a Wednesday or Thursday for your district. What  
19 was that?

20           A.    That was in response to the one-on-ones.

21           Q.    Okay. What's a DID every third Thursday?

22           A.    It's called a day in the district --

23           Q.    Okay.

24           A.    -- where the director is in your district  
25 for that particular day.

1 convenience, right?

2 A. Correct.

3 Q. And who was Casey? Casey Millner, right?

4 A. Yes.

5 Q. That was one of your peers?

6 A. Yes.

7 Q. Is that a male or a female?

8 A. That is a male.

9 Q. And what race is Mr. Millner?

10 A. He is white.

11 Q. Hand you Exhibit 31.

12 This is a copy of your letter of  
13 counseling, correct?

14 (Exhibit 31 marked.)

15 A. That is correct.

16 Q. Did you receive this document in person?

17 A. Yes.

18 Q. Where were you when you received this  
19 document?

20 A. At SmartPost.

21 Q. Okay. Do you agree or disagree at the  
22 time you received this letter you had 91.6 percent  
23 adjusted year-to-date attainment for FY19?

24 A. I disagree because that number is  
25 inaccurate because it included the negative



1 adjustment of BJ Services.

2 Q. Okay. And what about the next phrase,  
3 your district had the lowest year to date goal  
4 attainment for the Longhorn region; is that true?

5 A. That is inaccurate as well. Because of  
6 the inflated revenue added to my district, because  
7 of the impact of BJ Services, that is inaccurate.

8 Q. Okay. And what about zero out of eight  
9 AEs were at or above plan for your fourth quarter of  
10 fiscal year '19; was that true?

11 A. That would be inaccurate also just because  
12 once the removal of BJ Services and the alignment of  
13 4G Dental, I could have had, if not the same as my  
14 white peers, I would be equal to them.

15 Q. Okay. But that would only affect one or  
16 two AEs, right?

17 A. Correct. But that would put --

18 Q. Okay.

19 A. -- me equal if not the same --

20 Q. So at --

21 A. -- or higher.

22 Q. So at best, six out of eight of your  
23 AEs -- or two of eight of your AEs would be at or  
24 above plan, correct?

25 A. Correct.

1 Q. And what about, did your district fail to  
2 meet plan four out of four quarters in FY19?

3 A. That is false also because I am impacted  
4 by the negative adjustment of BJ Services.

5 Q. Okay. You were asked to create a PIP,  
6 right, a performance improvement plan?

7 A. Yes.

8 Q. And she asked for you to send that to her  
9 by close of business on July 3rd?

10 A. Yes.

11 Q. And then you would meet about it, correct?

12 A. Yes.

13 Q. Okay. And that's the same process that  
14 you filed with Mr. Seagraves when you issued him a  
15 letter of counseling, correct?

16 A. The difference is --

17 Q. No, ma'am. My question is --

18 A. Yes --

19 Q. -- did you --

20 A. -- that is correct.

21 Q. Thank you.

22 Hand you what has been marked as  
23 Exhibit 32. This is an email exchange between you  
24 and Ms. Lamb about your PIP, correct?

25 (Exhibit 32 marked.)

1 A. Yes.

2 Q. Do you recall how many categories were on  
3 your PIP?

4 A. Four.

5 Q. Okay. And while you're creating your PIP,  
6 you spoke to Dave Russell to get his input and  
7 views, correct?

8 A. Yes.

9 Q. Okay. And you provided an updated action  
10 plan to Michelle Lamb, correct?

11 A. Yes.

12 (Exhibit 33 marked.)

13 Q. Hand you what has been marked as  
14 Exhibit 33. Ms. Harris, this is just in color.  
15 You'll notice it's the -- it's your July 9th letter  
16 to Ms. Lamb. It's basically the first couple pages  
17 of Exhibit 32. Okay.

18 So if you go to the bottom of the first  
19 page, that's one of your categories, right, the  
20 bullet point that's in black?

21 A. Yes.

22 Q. Okay. And is the red comments that say,  
23 on the top of page 2, How will this impact district  
24 performance and how will it be measured, am I  
25 correct that the red on this document is Ms. Lamb's

1 questions to you?

2 A. Yes.

3 Q. And then the yellow -- I think that's  
4 yellow.

5 A. Yes.

6 Q. -- is your response to Ms. Lamb's question  
7 in red; is that right?

8 A. Yes.

9 Q. Okay. And these are all the categories  
10 that you had on your first PIP; is that right?

11 A. These are all of the strategies and  
12 approaches that I was going to take that I'm not  
13 100 percent sure if it outlines all the details in  
14 the PIP.

15 Q. Okay. But do you recall there were, like,  
16 seven action items that you were going to work on  
17 addressing?

18 A. Strategies, yes.

19 Q. Okay. And that's what you and Ms. Lamb  
20 agreed to?

21 A. We didn't agree because what I submitted  
22 to her was different than what she requested.

23 Q. Okay. The stuff that's on Exhibit --  
24 okay.

25 Based on your management experience, what

1 was your expectation on what would happen regarding  
2 your first PIP?

3 Let's take it if you were successful, you  
4 successfully completed it, what would have happened?

5 A. That I wouldn't move forward to a letter  
6 of warning and I wouldn't be targeted and retaliated  
7 against.

8 Q. Okay. And if you were unsuccessful at  
9 completing the PIP, what -- what is your  
10 understanding as a manager would have happened to  
11 you as the employee?

12 A. That the specifics in the letter of  
13 counseling and the letter of warning would be  
14 consistent and used to evaluate my white peers.

15 Q. Is your understanding that if an employee  
16 doesn't successfully complete the PIP, a letter of  
17 warning is typically issued?

18 A. If it's held to the same standard, it  
19 should be, but I was not.

20 (Exhibit 34 marked.)

21 Q. Okay. Hand you what's been marked as  
22 Exhibit 34.

23 Do you recall having a meeting with  
24 Ms. Lamb in September of 2019 to go over your  
25 performance on your PIP?

1           A.     Yes.

2           Q.     Okay.  And is Exhibit 34, does that  
3     identify the seven categories you were being tracked  
4     on in your PIP?

5           A.     Yes and held to a different standard as my  
6     white peers.

7           Q.     Okay.  And am I correct, ma'am, that the  
8     boldface is the PIP and the unbold statement  
9     underneath is what Ms. Lamb wrote to grade you on  
10    your performance on the PIP?

11          A.     Yes.

12          Q.     Is that fair?

13                 And Ms. Lamb informed you that she  
14    believed you only met one of the objectives and that  
15    your plan -- your district had now been under plan  
16    for five consecutive quarters, correct?

17          A.     That isn't correct because if I did not  
18    have the negative adjustment of BJ Services, I would  
19    not have had only one quarter, I would have had two  
20    or more.

21          Q.     Okay.  So my question is:  Ms. Lamb,  
22    though, during your meeting -- I appreciate your  
23    contention that the numbers aren't fair because of  
24    BJ Services and 4G Dental and some of the other  
25    things you talked about this morning.  Okay?

1           My question is: During the meeting in  
2     September of 2019, September 14th, did Ms. Lamb go  
3     over this document with you and highlight that she  
4     believed you only met one of the objectives?

5           A.     That she believed, yes.

6           Q.     Okay. And did she tell you -- let's look  
7     at the first bullet -- that the revenue gaps  
8     increased from 1.19 million to 1.36 million?

9           A.     What she doesn't say is the impact of  
10    BJ Services, yes.

11          Q.     Okay. Is she -- how about for -- and all  
12    these things that are identified in the first  
13    bullet, the scorecard is a weekly report; is that  
14    right?

15          A.     Yes.

16          Q.     What's ROA?

17          A.     We all had different ROAs. Mine was  
18    return on -- I don't recall what the A was --

19          Q.     Okay.

20          A.     -- so I can't give you an accurate answer  
21    on that.

22          Q.     So were you -- is it your testimony that  
23    you were the only manager in Michelle Lamb's group  
24    that had a biweekly ROA?

25          A.     Yes.

1           Q.    Hand you Exhibit 37.  It's a copy of your  
2   9/13/2019 warning letter.

3                    You received this warning letter, correct?

4           A.    Yes.

5           Q.    And you initiated the EXPLORE process  
6   after you received this warning letter, right?

7           A.    Yes.

8           Q.    And you still had an attorney at that  
9   point, correct?

10          A.    Yes.

11          Q.    When did you switch from your first  
12   counsel to your current counsel?

13          A.    I moved in January of 2021 so around about  
14   that time frame.

15          Q.    Okay.  So it was well after your  
16   termination?

17          A.    Yes.

18          Q.    Okay.  And I'm correct you wanted your  
19   attorney to participate in the EXPLORE process,  
20   right?

21          A.    Yes.

22          Q.    As a result of this warning letter, you  
23   were told to do another PIP, correct?

24          A.    Yes.

25          Q.    And you were asked to submit that to



1 correct?

2 A. Yes.

3 Q. All right. We already discussed those  
4 before our last break, right?

5 A. Yes.

6 (Exhibit 38 marked.)

7 Q. Handing you what's marked as Exhibit 38.  
8 This is a copy of the action plan that was  
9 ultimately --

10 A. Yeah.

11 Q. -- given to you to meet?

12 A. Yes.

13 Q. Okay. And do you recall, sitting here  
14 today, what parts of the action plan you disagreed  
15 with?

16 A. All of it.

17 Q. Okay. And so what did you suggest as your  
18 action plan? Do you recall that?

19 A. I just asked that Michelle Lamb be  
20 consistent with her evaluation of our performance  
21 compared to my white peers. The reporting showed  
22 that not only did several of my white peers not have  
23 people who did not have market development reps who  
24 couldn't achieve \$250 of closed business tracking,  
25 in addition to they also had strategic development

1 account executives who didn't hit \$1,000 of closed  
2 business tracking, so why was I held to a different  
3 standard than my white peers. And the only  
4 determining factor in her evaluation was my race.

5 Q. And so if you look at Exhibit 33, you  
6 didn't engage in a similar exercise with Ms. Lamb  
7 regarding your first PIP as you did -- regarding  
8 your second PIP as you did your first PIP, correct?

9 A. Repeat the question again.

10 Q. Do you have Exhibit 33 in front of you?

11 A. I do. I just got it.

12 Q. And if you look at the second page, it  
13 shows the collaboration between you and Ms. Lamb,  
14 right?

15 A. Yes. It shows --

16 Q. Okay.

17 A. -- details of the -- the PIP and then --

18 Q. So --

19 A. -- her questions and my response.

20 Q. And so my question to you is: You did not  
21 engage in the same back-and-forth with Ms. Lamb for  
22 your second PIP; is that right?

23 A. I don't recall.

24 Q. Okay. But you didn't -- is it fair to say  
25 you didn't come up with these five categories on

1 Exhibit 38?

2 A. They were from Michelle Lamb.

3 Q. Okay. And -- but she discussed these  
4 categories with you, right?

5 A. Yes.

6 Q. All right. And so she told you that each  
7 of your -- for example, for the CBT, she wanted  
8 100 percent of your MDs, needed to track their 250  
9 average daily --

10 A. Net revenue.

11 Q. -- revenue in order to close territory  
12 gaps in quarter 2, correct?

13 A. That is -- yes.

14 Q. And then for the strategic directors, she  
15 wanted them to track \$1,000 average daily net  
16 revenue, correct?

17 A. The strategic development, yes.

18 Q. Did you -- I just want to make sure I  
19 understand your testimony, ma'am.

20 Do you believe the numbers should have  
21 been different or do you think you shouldn't have  
22 had to deal with CBT at all?

23 A. I think it should have been consistent.  
24 If she was going to hold me to this standard, that  
25 100 percent of my market development reps had to

1 close \$250 and 100 percent of my strategic  
2 development account executives had to hit \$1,000, my  
3 white peers should have been held to the same  
4 standard.

5 It is inconsistent based on the closed  
6 business tracking and gives evidence that my white  
7 peers did not have or meet this expectation but yet  
8 I was held to it in this Q2 action plan.

9 Q. Okay. Was there ever a time in your  
10 relationship with Ms. Lamb that you didn't think she  
11 was being racist?

12 A. No.

13 Q. You thought she was racist the entire time  
14 you worked for her?

15 A. Yes, because she already had a perception  
16 that I wasn't qualified for leadership or the  
17 manager role for field sales because she had a  
18 conversation with Grant Kuhn who never thought I  
19 should be in leadership and spoke in front of  
20 several inside sales managers and told them if he  
21 ever had an opening, he wouldn't hire me.

22 Q. Okay. And when did this conversation  
23 occur between Ms. Lamb and Grant Kuhn?

24 A. I don't know when they had a conversation.  
25 He was the director prior to her taking over, so I'm

1 build her own relationship with me and not assume  
2 that she was going to take the feedback or  
3 perception from Grant Kuhn literally and actually  
4 act out discrimination and retaliation against me.

5 Q. Okay. Going back to Exhibit 38, do you  
6 agree under International that at the time this  
7 action plan was made, the current attainment was  
8 86.1 percent with six out of your eight AEs missing  
9 international plan?

10 A. I don't recall that exact number.

11 Q. Okay. And for pricing, she -- she --  
12 Ms. Lamb told you that success would be measured  
13 based on MD pricing submissions averaging out to one  
14 per week in quarter 2. Correct?

15 A. That is what it says, yes.

16 Q. And for collaborating to close, Ms. Lamb  
17 informed you that each MD on the team needed to be  
18 working at least one collaborate to close  
19 opportunity in quarter 2, right?

20 A. That is what it says.

21 Q. Okay. And that's what Ms. Lamb told you  
22 was her expectation, correct?

23 A. Yes.

24 Q. Okay. So Ms. Lamb told you all these -- I  
25 don't know if you call them carets, little arrow,

1       those were her expectations of you for quarter 2,  
2       correct?

3             A.     Yes.

4             Q.     December of 2019, do you recall having a  
5       meeting with Ms. Lamb where you discussed your  
6       performance on the action plan?

7             A.     I don't recall that specific date, but I  
8       had several conversations with her in regards to the  
9       performance.

10            Q.     Do you recall that at the beginning of  
11       that meeting, you had a discussion about Laura  
12       Segovia's letter of counseling update?

13            A.     I don't recall specifically when that was,  
14       but we had several conversations about Laura  
15       Segovia.

16            Q.     Do you recall having a conversation with  
17       Michelle Lamb where you walked through Laura's PIP  
18       and demonstrated that Laura had successfully  
19       completed all of her objectives?

20            A.     I don't recall that meeting specifically,  
21       but I did share the details of Laura's letter of  
22       counseling and her performance improvement plan with  
23       Michelle Lamb.

24            Q.     Do you recall that Ms. Lamb had a meeting  
25       with Laura Segovia in early December of 2019?

1           A.    I don't recall.  Michelle had several  
2 meetings with Laura.

3           Q.    Do you recall Ms. Lamb relaying to you  
4 that Laura wished she had more support from you as  
5 her manager?

6           A.    I don't recall.

7           Q.    Do you recall Ms. Lamb telling you that  
8 that's why Laura was going to Brian Conrey for  
9 strategy sessions?

10          A.    No, I don't recall.  I encouraged Laura to  
11 collaborate with Brian Conrey and myself so that she  
12 could try to get additional strategies from him on  
13 winning Empower.

14          Q.    Do you recall Ms. Lamb telling you that  
15 Laura wanted to apply for an open position in Jen  
16 Amix (phonetic) --

17          A.    Amix.

18          Q.    -- Amix's organization?

19          A.    Yes.

20          Q.    Okay.  When you had a conversation with  
21 Ms. Lamb about the action plan that's referenced in  
22 Exhibit 38, did you admit to her that you failed to  
23 meet three out of the five objectives?

24          A.    No, because these were false accusations.

25          Q.    Do you recall having a meeting with

1 Michelle Lamb where you went through each of these  
2 five items on Exhibit 38 and you had a discussion  
3 with Ms. Lamb on whether or not you met the  
4 requirements?

5 A. I had a discussion with her about the  
6 requirements. I don't recall having a discussion  
7 with her about not hitting the requirements.

8 Q. Do you -- so is it your testimony, ma'am,  
9 that Ms. Lamb never closed out the second PIP?

10 A. She did because I was terminated.

11 Q. Okay. And to close out a PIP, she would  
12 need to talk to the employee who was on the PIP,  
13 correct?

14 A. No, she could talk to HR because she  
15 doesn't have to consult with me to terminate me.

16 Q. Okay. Is it your -- so your testimony  
17 today is you don't recall Ms. Lamb ever discussing  
18 the second PIP with you?

19 A. I never said that. I said we discussed  
20 it. Your other question was did we close it out.  
21 We discussed the PIP and reviewed those details  
22 highlighted in the PIP.

23 Q. Okay. And do you recall discussing the  
24 details highlighted in the PIP on whether or not  
25 your team successfully met those objectives?



1           A.    I do not.

2           Q.    Do you recall Ms. Lamb telling you that as  
3 of 12/5/2019, one -- looking at Exhibit 38, one of  
4 your MDs failed to meet this requirement on the  
5 close to business tracking?

6           A.    I don't recall; she could have.

7           Q.    Do you recall that she told you that as of  
8 12/5/2019, two strategic directors failed to meet  
9 this requirement?

10          A.    As I shared, I don't recall this  
11 specifically but she could have.

12          Q.    Do you recall her telling you that your  
13 team didn't meet the international requirement  
14 referenced in the action plan?

15          A.    I don't recall her going through the  
16 completion or conclusion of this action plan.

17          Q.    Do you recall -- but you don't deny that  
18 she did, you just don't remember it?

19          A.    Correct.

20          Q.    Okay. See if this refreshes your memory.  
21 Do you recall involving pricing -- so the third  
22 category on Exhibit 38.

23                Do you recall Ms. Lamb informing you that  
24 the requirement was not met because four out of six  
25 MDs did not meet this requirement?

1           A.    I don't recall her specifically  
2 identifying those, no.

3           Q.    And do you recall on the fourth one,  
4 collaborate to close, that Ms. Lamb told you the  
5 requirements had been met?

6           A.    I do not recall if she gave me an update  
7 on how the results of this particular collaborate to  
8 close ended, no.

9           Q.    And on Exhibit 38 under Performance where  
10 you have the different types of FedEx Service  
11 offerings --

12          A.    Uh-huh.

13          Q.    -- listed and with a percentage, those  
14 were the goals that Ms. Lamb told you you needed to  
15 meet, correct?

16          A.    No.   That demonstrates what my actual  
17 goals were is what she stated, but it's actually  
18 inaccurate because it does not include the addition  
19 of 4G Dental and the removal of BJ Services.

20          Q.    Okay.   But this is what Ms. Lamb told you  
21 she expected you to meet, correct?

22          A.    That is correct.

23          Q.    Okay.   And did she go over what your  
24 percentages were for those four different service  
25 offerings; do you recall?

1           A.    I do not.

2           Q.    Does it refresh your memory at all, ma'am,  
3           that after Ms. Lamb went through your second PIP  
4           action plan December of 2019, that you asked her if  
5           you will have another meeting and Ms. Lamb told you  
6           that will be scheduled ad hoc and more than likely  
7           follow the holidays? Do you recall that?

8           A.    I don't, but I know I was terminated  
9           shortly after that.

10          Q.    After what?

11          A.    In January so after the holiday.

12                   (Exhibit 39 marked.)

13          Q.    Okay. Handing you what has been marked as  
14          Exhibit 30.

15                   MR. SANFORD: 30? We skipped over --  
16          oh.

17          Q.    What does it say?

18          A.    It says 39.

19          Q.    39. Thank you.

20                   Exhibit 39 is the termination letter dated  
21          1/7/2020.

22                   You received a copy of this letter, right?

23          A.    Yes.

24          Q.    Okay. And you went through the EXPLORE  
25          process regarding this letter, correct?

1 A. Yes.

2 Q. Returning to 38, it's your belief that  
3 Ms. Lamb put you on your second PIP because of your  
4 race, correct?

5 A. Yes.

6 Q. In other words, had you been a race other  
7 than black, Ms. Lamb would have not put you on the  
8 PIP. Is that your contention?

9 A. Yes.

10 Q. And again, at the time you were terminated  
11 you were represented by a law firm, correct?

12 A. Yes.

13 Q. And you wanted that law firm to  
14 participate in the EXPLORE process, correct?

15 A. Yes.

16 Q. Okay.

17 MR. BABCOCK: Let's go off the record  
18 for a minute.

19 THE VIDEOGRAPHER: Off the record at  
20 3:27.

21 (Recess 3:27 p.m. to 3:37 p.m.)

22 THE VIDEOGRAPHER: We are back on the  
23 record at 3:37 p.m.

24 (Exhibit 40 marked.)

25 Q. All right. Exhibit 40 is an email

1 holding the account manager, which was my white peer  
2 Brian Conrey, accountable for making sure that I  
3 received the positive revenue for that and holding  
4 me to a different standard than my white peers.

5 After that, I believe that because of  
6 Michelle's actions and responses, that the  
7 determining factor in her evaluating my performance  
8 was my race.

9 Q. Regarding the BJ Services issue, you  
10 identified it in 2017, right, the fall of 2017,  
11 correct?

12 A. October 2017, yes.

13 Q. And there's email traffic between you and  
14 Ms. Lamb that we went over starting in January  
15 of 2018, correct?

16 A. Correct.

17 Q. And at the time that email traffic started  
18 in January of 2018, had you formed your opinion that  
19 Ms. Lamb was a racist?

20 A. Yes.

21 Q. Okay. Because the 4G Dental customer  
22 issue occurred after that time period, correct?

23 A. Correct. But BJ Services happened during  
24 that time frame.

25 Q. Okay. And was the BJ Services the

1 earliest incident or issue that you identified that  
2 caused you to believe Ms. Lamb was a racist or is a  
3 racist?

4 A. No.

5 Q. What was the earliest issue?

6 A. It was the comment that she made in March  
7 that also identified as her being a racist.

8 Q. Okay.

9 A. So it's not just one; it's the  
10 BJ Services, it's the 4G Dental, it's the  
11 inconsistencies of evaluating my performance --

12 Q. If we --

13 A. -- all of those things.

14 Q. If we look at -- I'm trying to understand  
15 when the earliest date was.

16 The comment that was made to you to  
17 self-demote was March of 2019?

18 A. That is correct.

19 Q. That's after the emails you were  
20 exchanging with her about BJ Services, which were in  
21 January of 2018, right?

22 A. Correct. So BJ Services started before  
23 then.

24 Q. Correct.

25 Is there any issue that leads you to

1 A. Yes.

2 Q. Did a hub tour ever take place?

3 A. No.

4 Q. Did the customer end up putting a Memphis  
5 facility in?

6 A. They were still thinking about it at that  
7 particular time.

8 Q. Okay. And so Ms. Lamb was willing to help  
9 you try to get a customer a hub tour in September  
10 of 2018 even though you believed she was a racist,  
11 right?

12 A. Yes, that is correct.

13 (Exhibit 46 marked.)

14 Q. Hand you what has been marked Exhibit 46.

15 MR. BABCOCK: Hand that back to make  
16 sure I don't have writing on your copy, Mr. Sanford.

17 MR. SANFORD: Oh --

18 MR. BABCOCK: Just make --

19 MR. SANFORD: -- do I have it?

20 MR. BABCOCK: Just make sure I don't  
21 have writing on the second page.

22 MR. SANFORD: Oh, okay.

23 MR. BABCOCK: I don't think I do.

24 Perfect.

25 Q. This is your email that you sent to

1 Michael Clark on March 20th of 2019, correct?

2 A. Yes.

3 Q. And it says at the beginning, It was great  
4 speaking with you today.

5 So you had -- this is when you had your  
6 phone conversation with Mr. Clark?

7 A. Yes.

8 Q. To discuss the concerns you raised about  
9 the meeting you had with Michelle Lamb where she  
10 asked you to self-demote, right?

11 A. And my other concerns with BJ Services,  
12 Global Gold Rush, FedEx One Rate, and other details  
13 with Pathway and the inconsistencies of how she  
14 treated me against my white peers.

15 Q. Okay. And was your goal to provide  
16 Mr. Clark with examples of the unfair treatment you  
17 received from Lamb up until that point in time?

18 A. Yes.

19 Q. Okay. Had you visited with an attorney  
20 yet about your experiences at the time you wrote  
21 this email?

22 A. Yes.

23 Q. Did you have help writing this email?

24 A. They evaluated but the details came from  
25 me.



1           Q.    Okay.  And please when we tread around  
2           topics about your attorneys, try to answer my  
3           question because I'm not entitled to know about  
4           conversations you had with anyone that you may have  
5           visited with.  Okay?

6           A.    Okay.

7           Q.    And so if you answer my question, I'll do  
8           a good job of hopefully not delving into that  
9           material.

10                  All right.  And so am I correct your  
11           attorneys reviewed the email before you submitted it  
12           to Michael Clark?

13           A.    Yes.

14                          (Exhibit 47 marked.)

15           Q.    Okay.  Hand you what has been marked as  
16           Exhibit 47.  This is the June 28th ethics case which  
17           references a June 26th date.

18                  Are you aware, ma'am, on who inputted this  
19           into the EthicsPoint software?

20           A.    No.  Prior to today, I have never seen  
21           this.

22           Q.    Okay.  And do you recall ever filling out  
23           on a website concerns you were having at FedEx?

24           A.    Yes.

25           Q.    Okay.  If you go to page 2 of this

1 document, which is FXC 8, it says, quote, Jennifer  
2 is concerned that she's being retaliated against due  
3 to filing an EEO just after receiving a letter on  
4 June 3, 2019, which is attached that states, quote,  
5 Each issue brought forth has been thoroughly  
6 investigated with the determination that corrective  
7 action will be taken, close quote.

8 Do you recall raising a concern that you  
9 thought you were being retaliated against in late  
10 June of 2019?

11 A. Yes.

12 Q. Okay. And who did you raise that concern  
13 with?

14 A. I went to Michael Clark with an email, as  
15 well as Kristie Castilow.

16 Q. Okay. It says at the end, Jennifer states  
17 that it has been 23 days since this letter and  
18 things haven't improved; yet, it has gotten worse.

19 Did I read that right?

20 A. Yes.

21 Q. Is that part of the concern you were  
22 raising at that time?

23 A. Yes, at that time.

24 Q. And the 23 days since the letter, that's  
25 the letter of counseling, correct?

1           A.    Yes.

2           Q.    Okay.  And what happened during that 23  
3           days that caused you to tell FedEx that things had  
4           gotten worse?

5           A.    The timeline is I make a complaint,  
6           23 days later I'm given a letter of counseling with  
7           the requirement of a performance improvement plan.  
8           That outlines details that could highlight  
9           retaliation.  I complain; I'm given a letter of  
10          counseling.  That process continued throughout my  
11          complaint process with HR.

12                       (Exhibit 62 marked.)

13          Q.    Okay.  It's out of order, Ms. Harris, but  
14          the record will be fine.  This is Exhibit 62.

15                       MR. BABCOCK:  62, Brian.

16          Q.    This is the June 3, 2019, letter you got  
17          from Ms. Clark (sic), and that's the letter you're  
18          referencing in Exhibit 47, correct?

19          A.    Yes.

20                       MR. BABCOCK:  Where did we go to?

21                       THE WITNESS:  62.

22                       MR. BABCOCK:  What was after 62?  47?

23          Q.    Okay.  And looking at Exhibit 62, that's  
24          not the only closure letter you received from  
25          Michael Clark, correct?

1 Here is Exhibit 54.

2 This is your first EXPLORE, right?

3 (Exhibit 54 marked.)

4 A. I'm looking at the details. One moment.

5 (Reviewed document.)

6 Yes.

7 Q. Okay. And you didn't receive any  
8 follow-up with this because at the time, you had an  
9 attorney that you wanted involved in the process,  
10 right?

11 A. Yes.

12 Q. And FedEx wouldn't permit that?

13 A. Correct.

14 Q. Okay. And then you complained again after  
15 you received the warning letter, correct?

16 A. Yes.

17 Q. All right. How did you raise your  
18 complaint in December of 2019, do you recall, ma'am?

19 A. I sent a message to Michael Clark.

20 (Exhibit 55 marked.)

21 Q. Okay. Hand you what has been marked as  
22 Exhibit 55.

23 You testified earlier that you hadn't seen  
24 any EthicsPoints until today, correct?

25 A. That is correct.

1           Q.    If you go to page 2 of this document,  
2           there's -- under "provide a brief description,"  
3           someone entered in information, correct?

4           A.    Yes.

5           Q.    And looking at the information, where it  
6           says, Please see the details below of my ongoing  
7           complaint of retaliation, humiliation,  
8           discrimination treatment by Michelle Lamb, and then  
9           it goes on, is that the information you were  
10          providing to Mr. Clark?

11          A.    For the follow-up complaint, yes --

12          Q.    Okay.

13          A.    -- not for the initial.

14          Q.    Correct.

15                  In the first paragraph, five lines from  
16          the bottom, it says, quote, While I didn't meet all  
17          my goals in the action plan, I did demonstrate  
18          improvement in my teams.

19                  Did I read the first part of that sentence  
20          correctly?

21          A.    Yes.

22          Q.    All right. So you admitted to Mr. Clark  
23          that you had not met all the goals in your action  
24          plan, correct?

25          A.    That is correct. He also knew that those

1 impact you?

2 A. Yes.

3 Q. And you were willing to be negatively  
4 impacted?

5 A. Yes.

6 Q. Why?

7 A. Because I wanted to be considered for  
8 President's Club with accurate numbers. I didn't  
9 want them to be inflated and for them to give me an  
10 award that I did not deserve.

11 Q. What's the difference between agreeing to  
12 be negatively impacted for the purpose of  
13 President's Club or Ambassador Club or Rewards Club  
14 and not agree to be negatively impacted on your  
15 attainment goals?

16 MR. BABCOCK: Object to form.

17 A. Because the President's Club, Ambassador's  
18 Club, and Rewards Club was prior. The adjustment of  
19 BJ Services was for the future.

20 Q. So I think I heard something that you  
21 would be willing to take a credit or something or --

22 A. Yes.

23 Q. -- discount on commissions on past?

24 A. Yes, because I wanted to be evaluated  
25 accurately.

1 declines them.

2 Q. Right.

3 So it's one thing for FedEx to say we want  
4 to lower costs, and it's another thing to say to  
5 someone like Michelle Lamb, we want you to lower  
6 costs by this amount, you have discretion to choose  
7 how that's going to be done?

8 A. That is correct.

9 Q. And she chose you in reducing costs and  
10 not your white peers?

11 A. Correct.

12 MR. BABCOCK: Object to the form.

13 Q. And how do you know this?

14 A. Because when originally she approved my  
15 travel and trip to Memphis for the Memphis Pathway  
16 program, that included for me to give the expenses  
17 to FedEx for my flight, my hotel, and my rental.  
18 She came back and said when it was time for me to  
19 book that specific travel that now the company was  
20 on cost constraints and that I was not allowed to be  
21 able to attend.

22 But what she didn't share is that there's  
23 a program in Dallas in which, as a team, as peers,  
24 my white peers specifically could drive to and be  
25 afforded the same opportunity to still attend the

1           Q.    When did you find out that they had  
2           attended the event or were going to attend the  
3           event, before or after?

4           A.    Before.

5           Q.    And then -- so why didn't you go?

6           A.    They laughed in my face and said that they  
7           were going and that the excuse that Michelle used  
8           that I couldn't go to Memphis wasn't correct because  
9           they were going. And I was never extended the same  
10          invitation.

11          Q.    Why didn't you just show up?

12          A.    Because I had used vacation time so that I  
13          could still honor my commitment to the director  
14          Jerry Page in Memphis to come to the Pathway program  
15          there in Memphis and still be able to demonstrate my  
16          leadership skills and help coach and develop the  
17          people who aspire to, you know, grow and develop in  
18          the company.

19          Q.    So was Michelle Lamb the first time you  
20          experienced discrimination at FedEx?

21          A.    No.

22          Q.    So you have been through this before --

23          A.    Yes.

24          Q.    -- right?

25                But it had a different outcome?



1 A. No.

2 Q. Do you know whether or not FedEx has been  
3 trained on whether or not there's no token exception  
4 to discrimination?

5 MR. BABCOCK: Object to the form.

6 A. I would hope so.

7 Q. You're able to go to Pathway?

8 A. At my own expense and using vacation.

9 Q. So did Michelle Lamb give you any  
10 assistance, help you at all --

11 A. No.

12 Q. -- in that process?

13 I think you -- I think you said that  
14 Michelle Lamb wanted you to do Coach2Grow 2.0  
15 different ways than you were doing it. What do you  
16 mean?

17 MR. BABCOCK: Object to the form.

18 A. Yes. She rolled out the Coach2Grow 2.0  
19 program, and there were specific ways that she  
20 wanted it done.

21 Q. Like what?

22 A. There was a lengthy PowerPoint  
23 presentation that instead of going to the facts of  
24 what Coach2Grow 2.0 was, she wanted me to go through  
25 every slide with each account executive and then

1 allow them to take an assessment based on that which  
 2 would identify their strengths or ways for them to  
 3 be focused on me to coach them with the new  
 4 Coach2Grow 2.0. But the approaches of my white  
 5 peers, they didn't go through every slide. They  
 6 highlighted slides just like I did but weren't given  
 7 the aggressive treatment. And --

8 Q. So -- so two things, so -- let me stop.

9 So what you did that was different is you  
 10 didn't go through every slide; you highlighted  
 11 certain slides?

12 A. Yes.

13 Q. And she wanted you to go through every  
 14 single slide?

15 A. Yes.

16 Q. And you're saying your peers, other  
 17 district managers, didn't go through all the slides  
 18 with their account executives?

19 MR. BABCOCK: Object to the form.

20 A. No.

21 Q. How do you know?

22 A. Because we talked about their process, and  
 23 that is why I reached out to Brian Conrey and  
 24 Rebecca Callahan to get best -- best practices from  
 25 them but was denied that opportunity because

1 Michelle wanted it to be done her way.

2 Q. So how do you know they didn't go through  
3 their slides?

4 A. Because they told me the details they went  
5 through. They went through more slides than I did  
6 but not every slide as she requested.

7 Q. So why wouldn't you go through every slide  
8 initially?

9 A. Because I wanted to focus on the key  
10 components that would really transition what we were  
11 doing and coaching prior to Coach2Grow 2.0. That  
12 wasn't the first time we had Coach2Grow. This just  
13 was a transition of what Coach2Grow was. We had  
14 regular Coach2Grow and Coach2Grow 2.0.

15 So the account managers were already  
16 familiar with the original Coach2Grow 2.0. And in  
17 my attempt to just reiterate what the changes were,  
18 I highlighted what those were instead of going  
19 through every slide that was given in that  
20 presentation.

21 Q. Because they already knew it?

22 A. Yes.

23 Q. So after she instructed you to go through  
24 every slide, did she want you to go back and do it  
25 again?

1 A. Yes. And I did.

2 Q. And you did?

3 A. Yes.

4 Q. Every single slide?

5 A. Yes.

6 Q. You complied with her request?

7 A. That is correct.

8 Q. And she still -- I mean, we know you're  
9 terminated.

10 Okay. So let me ask you -- let's go  
11 through this. Well, let me -- before I do that, I  
12 want to -- I think you talked about the team needed  
13 to be led by a strong coach, meeting strong metrics.

14 Do you remember talking about that?

15 A. Yes, that was the reference of Michelle  
16 saying that I was not a strong coach.

17 Q. Yeah.

18 And so what about your peers, were they  
19 meeting their metrics?

20 A. No.

21 MR. BABCOCK: Object to the form.

22 Q. Okay. And do you dispute that you were  
23 not a strong coach?

24 A. Yes.

25 Q. On what basis do you dispute that you are

1 A. No.

2 Q. Why not?

3 A. Because on several occasions, her actions  
4 demonstrated that she was intentionally trying to  
5 target me because I was black.

6 Q. How so?

7 A. BJ Services goes against the sales  
8 compensation policy which aligns a customer with  
9 territories and ZIP codes. And she overrided that  
10 process to negatively impact me and make it appear  
11 on the reporting that I was a poor performer.

12 Q. She had access to see all your performance  
13 records?

14 A. Yes.

15 Q. Performance records that showed that you  
16 were a good performer?

17 A. Yes.

18 Q. You have seen their policies against  
19 discrimination and retaliation?

20 A. Yes.

21 Q. So they have a written policy saying it.  
22 Do you dispute that they follow that  
23 policy?

24 A. Yes, they did not follow the policy.

25 Q. Well, they say they don't tolerate

1 discrimination.

2 Do you dispute that statement in their  
3 policy?

4 A. I experienced them tolerating  
5 discrimination and retaliation.

6 Q. Well, they have got -- I mean, how can  
7 they? They have a policy that says we do not  
8 discriminate. We do not tolerate discrimination.  
9 So how can they discriminate if they -- I mean, it's  
10 right there. Their policy says we don't do it.

11 A. Policies have to be --

12 MR. BABCOCK: Object to form.

13 A. -- enforced by the actual employees. So  
14 if they don't monitor or supervise if that behavior  
15 is being demonstrated to an employee and investigate  
16 the complaints made when they share the specifics  
17 and facts, then FedEx isn't following those  
18 policies.

19 Q. Does that go the same for retaliation?

20 A. Yes.

21 Q. Did you take advantage of their policies  
22 to try and contest what was happening to you?

23 A. Yes.

24 Q. What did you do?

25 A. I escalated to Dave Russell, to Dan

1 having any FedEx One Rate and Global Gold Rush  
2 opportunities compared to my white peers, and that  
3 was false. So there's several occasions that --

4 Q. When you say it's false, you dispute --

5 A. Yes.

6 Q. -- her statement --

7 A. That is correct.

8 Q. -- that you were at the bottom?

9 A. Yes.

10 Q. So let's just go -- this is Plaintiff's  
11 Exhibit 1.

12 MR. BABCOCK: Do you want to just...

13 MR. SANFORD: Yeah. Oh, I can make  
14 it. Add it?

15 MR. BABCOCK: Yeah, why not.

16 MR. SANFORD: Why not. Thanks.

17 (Exhibit 64 marked.)

18 Q. This is Exhibit 64. So it says you failed  
19 the meet plan throughout FY19.

20 Do you dispute that?

21 A. Yes.

22 Q. And you failed to meet plan FY20 quarter,  
23 unadjusted.

24 Do you dispute that?

25 A. Yes.

1           Q.    FY20 year to date, your district has the  
2 lowest pricing activity in the region.

3                   Do you dispute that?

4           A.    Yes.

5           Q.    Says you did not meet action plan  
6 objectives which you created to improve performance.

7                   Do you dispute that?

8           A.    Yes.

9           Q.    Says you did not meet the CBT expectation.  
10                  Do you dispute that?

11          A.    Yes.

12          Q.    You did not meet the collaborate to close  
13 expectation.

14                  Do you dispute that?

15          A.    Yes.

16          Q.    You did not meet pricing expectation.  
17                  Do you dispute that?

18          A.    Yes.

19          Q.    You did not close gaps performance gaps.  
20                  Do you dispute that?

21          A.    Yes.

22          Q.    You did not meet the attainment  
23 expectation.

24                  Do you dispute that?

25          A.    Yes.



1           Q.    Okay.  And percent of AEs above plan  
2           versus below plan, you're at 50 percent?

3           A.    Right.  That contradicts her saying  
4           zero --

5           Q.    Right.

6           A.    -- of eight.

7           Q.    And so where does that -- let's see.  The  
8           50 percent, where does that put you in the group of  
9           the eight?

10          A.    Number 4.

11          Q.    Is it number 4 out of 8 the top half or  
12          the lower half?

13          A.    The top half.

14          Q.    So not only is she wrong about the zero,  
15          you're -- you're in the top half?

16          A.    Correct.

17          Q.    So how about improvement?  Closing the  
18          gaps on improvement, right?

19                 Let's look at 145319.  Did we improve?  So  
20          we have some down arrows.  What's down arrow  
21          signify?

22          A.    It means that instead of improvement from  
23          the previous meeting, that it went down.

24          Q.    And if it goes up, what's that?

25          A.    That you did improve.

1 Q. So let's look at the first one, Capital of  
2 Texas. It's got two down arrows and two up arrows.

3 Do you see that?

4 A. Yes.

5 Q. And what do you have?

6 A. I have three up arrows and one down arrow.

7 Q. So you did better than Capital of Texas  
8 group?

9 A. Yes.

10 Q. In terms of closing the gap?

11 A. Yes.

12 Q. And Alamo has three up arrows and one  
13 down, right?

14 A. Yes.

15 Q. Same as you?

16 A. Correct.

17 Q. And Bayou Bruisers, all down?

18 A. Correct.

19 Q. You did better?

20 A. Yes.

21 Q. Summit, all down. You did better?

22 A. Yes.

23 Q. Now, who is Capital of Texas?

24 A. It's either Jaime Golden-McElroy or Brian  
25 Golden. They split Austin.

1 Q. What -- what's their race?

2 A. White.

3 Q. Put on a plan --

4 A. No.

5 Q. -- performance improvement plan?  
6 Terminated?

7 A. No.

8 Q. Bayou Bruisers, who is that?

9 A. I don't recall specifically who that was,  
10 but it was a white peer.

11 Q. Okay. Put on a plan?

12 A. No.

13 Q. Unless it's Richard, I guess. Would it  
14 have been Richard?

15 A. No, Richard is Alamo.

16 Q. Okay. Summit, all down. Who's that?

17 A. Based on the percentage, that appears to  
18 be Brian Conrey, but I can't 100 percent verify  
19 that.

20 Q. He's white?

21 A. Yes.

22 Q. Westside Warriors, three down, one up,  
23 right?

24 A. Correct.

25 Q. Do you know who Westside Warriors is?

1 A. No.

2 Q. But we know this is -- each one of these  
3 is the eight -- your eight peers?

4 A. Yes.

5 Q. You're the only nonblack -- you're the  
6 only black person --

7 A. Yes.

8 Q. -- of the peers, right?

9 A. Yes.

10 Q. And so whoever it is, you're doing better  
11 than them?

12 A. Yes.

13 Q. And we know it's not Richard Holley  
14 because he's Alamo?

15 A. That is correct.

16 Q. So they weren't put on a plan --

17 A. Correct.

18 Q. -- performance improvement plan or  
19 terminated, right?

20 A. Right.

21 Q. And then there's Central Texas, which is  
22 three down and one up.

23 You did better than Central Texas?

24 A. Yes.

25 Q. Not put on performance improvement plan?

1 A. No.

2 Q. Not terminated?

3 A. No.

4 Q. Q4 FY20. This shows your replacement?

5 A. Yes.

6 Q. Your replacement is only 87.7.

7 A. That is correct.

8 Q. Replacement is not doing as good as you  
9 did?

10 A. No.

11 Q. And same thing on the next -- the last  
12 page, 145340, 87.6, not doing as good as you?

13 A. Correct.

14 Q. And are you relying on any of this as part  
15 of the reasons for your disputing that you failed  
16 to -- all the things on the first page of 64?

17 A. Yes.

18 Q. And disputing the -- the plan that you  
19 have?

20 A. Yes.

21 Q. And disputing your termination?

22 A. Yes.

23 Q. And disputing that they conducted a fair  
24 investigation?

25 A. Yes.

1 STATE OF TEXAS )

2 COUNTY OF DALLAS )

3 I, Michelle L. Munroe, Certified Shorthand  
4 Reporter in and for the State of Texas, certify that  
5 the foregoing deposition of JENNIFER HARRIS was  
6 reported stenographically by me at the time and place  
7 indicated, said witness having been placed under oath  
8 by me, and that the deposition is a true record of  
9 the testimony given by the witness;

10 That the amount of time used by each party at  
11 the deposition is as follows:

Mr. Babcock - 6 hours, 16 minutes

12 Mr. Sanford - 11 minutes

13 I further certify that I am neither counsel for  
14 nor related to any party in this cause and am not  
15 financially interested in its outcome.

16 Given under my hand on this the 6th day  
17 of June, 2022.

18  
19  
20  
21 

Michelle L. Munroe, CSR No. 6011

22 Commission expires 1-31-24

Firm Registration #571

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